

S A M P L E

**MEMORANDUM OF UNDERSTANDING BETWEEN
___ POLICE DEPARTMENT AND ___ SCHOOL DISTRICT¹**

This memorandum of understanding (“MOU”) is effective as of [*insert date*] and concerns the relationship between the ___ Police Department and the ___ Public Schools.

I. GOVERNING PRINCIPLES

The School District, the Police Department, and this MOU are guided by the following principles:

- A. Excellent public education is essential to the well-being of individuals, communities, and our state.
- B. To provide an excellent education for all students, schools must be safe, and students must feel safe.
- C. Preventing misbehavior is one of the keys to maintaining safe schools.
- D. Positive relationship-building and a supportive school culture are essential methods of preventing misbehavior.
- E. Students who misbehave should face consequences that are fair, developmentally appropriate, and effective; that help them learn from their mistakes; that minimize loss of instruction time, and that address the root causes of their misbehavior. Such discipline is most commonly and effectively accomplished with school personnel employing positive behavioral supports, restorative justice approaches, mentoring, and referrals to tutors or counseling.
- F. Arrests and court referrals should always be the last resort; studies show that arrests double the likelihood that a student will drop out of school, and quadruple those odds if coupled with a court appearance. Arrests also tend to lower test scores, reduce employment prospects, and increase the chances of future involvement in the criminal justice system.² This does not benefit the student, our schools or our community.
- G. Searching and interrogating students, unless absolutely necessary, is also counterproductive to the role of schools.
- H. Meaningful engagement of all stakeholders – including students, parents, and teachers – is essential to school safety and positive school climate.
- I. The schools, the police department, the parents, families, and community recognize that:
 - a. school administrators and teachers are ultimately responsible for school discipline and culture;
 - b. law enforcement should not be involved in the enforcement of school rules; and
 - c. clear delineation of the roles and responsibilities of law enforcement, with regular review by all stakeholders, is essential.

¹ This model memorandum is based heavily on the Model MOU from: Jason Langberg & Angela Ciolfi, *Protecting Childhood: A Blueprint for Developmentally Appropriate School Policing in Virginia*, JustChildren Program of the Legal Aid Justice Center (Jan. 2016); the MOU also draws on MOU’s from the Clayton County school system, the Northern California model MOU, and a review of the School District of Philadelphia Office of School Safety memo on School Police Responses, the Pasadena USD and Police Services MOU; and Denver Intergovernmental Agreement re: Police Officers in Schools.

² Sweeten, 2006; Thornberry 2004 and Grogger 1992 [from Clayton Cty MOU]

II. SCOPE OF LAW ENFORCEMENT’S WORK IN THE SCHOOLS

The intent of this MOU is to give clear guidance to law enforcement officers and school officials, and to ensure law enforcement is involved in only the prevention and investigation of crime, and not in the enforcement of school rules and policies. This section is not intended to be a recitation of existing law. Instead, it spells out heightened protections for students and parents that are more consistent with the unique setting of schools, the mission of the ___ School District, and the special characteristics of young people.

Disciplining students is the responsibility of school administrators, while preventing serious crime is primarily the responsibility of law enforcement. School staff should never ask for officer assistance simply because the officer is available.

The following guidelines are intended to assist both school personnel and officers in evaluating when and how it is appropriate to involve SRO’s in situations involving school students:

A. Elementary Schools

The tender age of children in elementary schools requires school personnel to address virtually all disciplinary issues. Elementary students do not have the knowledge or understanding of our legal system to grasp whether they are breaking a law. Consequently, School Resource Officers assigned to Elementary Schools may patrol the perimeter of the schools to protect students from external threats. But, SRO’s shall not enter the school property, including the playground or any of the school facilities, unless:

- i. Exigent circumstances – the officer has good reason to believe that there is an explicit, serious, and urgent threat to the community, such as a bomb threat, or a threat from an active shooter on the school campus.
- ii. Class presentation – the officer has been invited, as part of the regular school curriculum, to provide instruction on safety or other related community policing issues.

B. Secondary Schools

In Secondary Schools, the presence of SRO’s within school buildings should still be focused on keeping students and school personnel safe, and promoting an environment that makes students feel supported and engaged with the school community.

Designated school site administrators and staff may request officers’ assistance only as a last resort when: (1) required by state law; (2) appropriate to address or prevent actual criminal conduct; or (3) necessary to protect the immediate physical safety of students and/or staff.

Accordingly, SRO’s must be trained in two ways:

1. **SRO’s shall not act as a disciplinarian.** School administrators – in partnership with parents and the community – still have exclusive authority over school discipline issues. SRO’s must refuse to engage in disputes that are related to school discipline, even if school personnel ask for their help.

The types of behavior that would not be appropriate for SRO involvement include, but are not limited to: disorderly conduct; failure to carry a hall pass or appropriate identification; loitering, profanity, insubordination or defiance; verbal altercations; physical altercations that do not result in injury; inappropriate use of electronic devices; being late, or cutting class; perceived intoxication; possession of tobacco or alcohol; small acts of theft or vandalism.

2. **SRO's must use a graduated response to students who violate the law.** SRO's shall not arrest students for low level violations of the law. The first or second time a student commits such a violation, the SRO shall refer the student to school personnel, or to appropriate supports, such as a behavioral intervention plan, mental health counselors, restorative justice programs, tutoring or Saturday school, and/or community service.

Low Level Offenses – Examples of low-level violations of the law include, but are not limited to: assault without physical injury; possession of marijuana; threats to school employees; larger acts of theft or vandalism (over \$1000 in damage or stolen property); possession of, but no use of, a weapon.

Serious Offenses – If a student commits a criminal offense that is more serious, or if a student repeatedly commits low level offenses and refuses to engage in alternative approaches, the SRO has the discretion, subject to the guidelines in section V. below, to arrest a student.

3. **SRO's may intervene in incidents involving an immediate and urgent threat to public safety.** Situations that involve fire arms or a clear imminent risk of serious physical injury to a person on FPS property, warrant SRO intervention. [Serious physical injury is defined as: “bodily injury which involves (A) a substantial risk of death; (B) extreme physical pain; (c) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.”]

III. QUALIFICATIONS FOR SCHOOL RESOURCE OFFICERS

Prerequisites to being selected as an SRO shall include:

- a. Experience working well with children and youth;
- b. Personality traits that are necessary for working successfully with children, youth, and students with disabilities (*e.g.*, approachable, friendly, empathetic, flexible, patient, mature, able to work with people from different racial, ethnic, and cultural backgrounds, etc.); and
- c. A work history free of any substantiated complaints of excessive force, racial profiling, harassment, or discrimination.
- d. Approval from a selection committee composed of at least one of each of the following groups: student, parent, school administrator, and teacher.

IV. TRAINING FOR SCHOOL RESOURCE OFFICERS

A. Prior to becoming an SRO, an officer must have received training in the following areas within the previous 12 months:

- i. Contents of the this MOU;

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- ii. Students' rights with respect to special education, searches and seizures, interrogations, excessive force, harassment and bullying, and discrimination;
 - iii. Students' privacy rights under state and federal law;
 - iv. De-escalation techniques; especially techniques effective in working with students who have disabilities, mental health issues, or a history of abuse and trauma;
 - v. Methods schools use to provide extra support to individual students (*e.g.*, 504 Plans, Individualized Education Programs (IEPs), Behavioral Intervention Plans (BIPs), Child Study Intervention Teams, etc.);
 - vi. Implicit bias and cultural competency;
 - vii. Positive Behavioral Interventions and Supports (PBIS) and other evidence-based practices that have been proven to improve school climate;
 - viii. Short- and long-term consequences for students of involvement with the justice system; and
 - ix. Available school and community resources, including as alternatives to arrests and court referrals (*e.g.*, mediation, substance abuse counseling, mental health services, and community service).
- B. All SROs shall receive training in all of the aforementioned on an annual basis.
- C. All trainings must be conducted by a qualified trainer.
- D. SROs shall also be familiar with and comply with:
- i. Relevant school board policies and regulations;
 - ii. Relevant police policies and regulations;
 - iii. Relevant school emergency management plans; and
 - iv. Relevant state and federal laws and regulations, including those related to special education, suspension and expulsion, search and seizure, interrogation, seclusion and restraint, use of force, discrimination, and student privacy.

V. OFFICER BEHAVIOR ON CAMPUS

School Resource Officers on Middle School and High School campuses must adapt their usual practices and procedures to the school environment.

A. QUESTIONING

Unless there is a clear and immediate threat to physical safety, officers shall, prior to any questioning of a student about his or her involvement in a delinquent or criminal offense:

- i. Possess probable cause to believe the student has committed, or will commit in the foreseeable future, an offense that poses a clear threat to physical safety;
- ii. Communicate heightened, developmentally appropriate warnings against self-incrimination to the student in the student's primary language;
- iii. Notify the student's parent of the impending questioning, and provide the parent with a reasonable opportunity to be present during the questioning; and
- iv. Notify a school administrator of the impending questioning, and provide him or her with an opportunity to be present during the questioning.

Heightened, developmentally appropriate warnings against self-incrimination shall include the following:

- i. "You have the right to remain silent. You do not have to talk to me."
- ii. "Anything you say to me can be used against you in court or for suspension or expulsion from school."
- iii. "You have the right to have a parent, guardian, or lawyer here while I question you. If you want one of them here, you do not have to talk to me until he or she arrives."
- iv. "If you go to court for delinquency or criminal charges, you will have a lawyer."

If the student exercises his or her right to remain silent, the officer shall immediately end the questioning.

Officers shall make a record of each questioning of a student – including a video recording of the questions and answers.

B. SEARCHES

1. Prior to searching a student, a student's possessions, or a student's locker, officers shall:
 - a. Have probable cause to believe the student possesses:
 - i. A weapon;
 - ii. Illegal drugs or alcohol;
 - iii. Stolen property; or
 - iv. Evidence needed to prevent physical harm;
 - b. Notify a school administrator of the impending search, unless there is a clear and immediate threat to physical safety; and
 - c. Provide the school administrator with an opportunity to be present during the impending search, unless there is a clear and immediate threat to physical safety.
2. Probable cause, as it is used in this section, means all of the circumstances would lead a reasonable person to believe the student possesses a weapon, drugs, alcohol, stolen property, or evidence needed to prevent imminent physical harm to a person.
3. An officer may search a student without probable cause, only if, prior to the search, the officer has voluntary, clear, written consent from the student's parent or the student, if the student is in high school. (Consent from elementary and middle school students is presumed to be invalid.)
4. All searches shall:
 - a. Occur outside of the presence of staff (except school administrators) and other students, unless there is a clear and immediate threat to physical safety; and
 - b. Be reasonable in scope.
5. As soon as practicable, the student's parent shall be notified of the search via telephone or email, or in-person.
6. Officers shall not:
 - a. Conduct strip searches;
 - b. Conduct stop and frisk searches; or
 - c. Participate in searches conducted by school staff, unless the principal or vice-principal requests the officer for safety reasons.
7. Officers shall make a record of each search of a student.

C. ARRESTS

1. Unless there is a clear and immediate threat to physical safety, officers shall, prior to arresting a student on campus:
 - a. Notify a school administrator of the impending arrest; and
 - b. Provide the school administrator with an opportunity to be present during the arrest.
2. Unless there is a clear and immediate threat to physical safety, all arrests shall occur outside of the presence of school staff and other students.
3. As soon as practicable after arresting a student, an officer shall notify, by phone or in-person, the student's parent of:
 - a. The arrest;
 - b. The basis for the arrest; and
 - c. The location at which the parent can meet the student.
4. Officers shall have the authority to arrest non-students on FPS property when there is probable cause to believe the non-student committed or is committing a criminal offense.

D. USE OF FORCE

1. Officers shall not un-holster a firearm on school property, unless there is a reasonable basis to believe someone on the property may use a firearm or other weapon to cause death.
2. Officers shall not use physical force unless there is a clear and immediate threat of serious bodily injury. [Serious bodily injury is defined as: "bodily injury which involves (A) a substantial risk of death; (B) extreme physical pain; (c) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty."]
3. Physical force includes, but is not limited to, the use of:
 - a. Physical restraint (*e.g.*, putting a student's arm behind his or her back);
 - b. Handcuffs and other restraint devices;
 - c. Pepper spray and mace;
 - d. TASERs and stun guns; and
 - e. Firearms.
4. If physical force is used, officers shall:
 - a. Complete "Use of Force Reporting Form"; and
 - b. Provide a copy of the form to:
 - i. His or her supervisor;
 - ii. The school principal; and
 - iii. The student's parent in his or her primary language.
5. The officer's supervisor and the school principal shall maintain a record of the forms.

VI. GRIEVANCES

- A. Who may file?

- B. Any student, parent, school employee, or police department employee who believes an SRO has violated a law, policy, or this MOU may file a grievance with the SRO's supervisor.
- C. What is filed? A standard grievance form shall be available in paper form and on the school's website in English and Spanish, and to the extent possible, in each of the other primary languages spoken by students and parents in the district.
- D. Grievance Procedure –
 - a. Within two work days of receiving the grievance, the principal shall:
 - i. Provide a copy of the grievance to the officer; and
 - ii. Acknowledge, in writing, receipt of the grievance to the grievant.
 - iii. Invite the officer who is the subject of the grievance to submit a written response.
 - iv. If allegations of serious misconduct by an officer are pending, (such as excessive force resulting in physical injury; sexual harassment, or using racial, homophobic or disability derogatory slurs), that officer shall not be on school property and shall not interact with students.
 - b. Within 30 calendar days of the filing of a grievance, the supervisor or principal shall:
 - i. Conduct a thorough and impartial investigation of the allegation(s) in the grievance, including, but not limited to: interviewing and obtaining written statements from the grievant and witnesses; reviewing photographic evidence and/or video footage; and reviewing documentary evidence submitted by witnesses, the grievant, and/or the officer.
 - ii. Issue a written report with findings of fact, and what remedies, if any, will be undertaken.
- E. Appeal -
 - a. The grievant and/or officer may appeal the supervisor's or principal's report within five calendar days of receiving the report by submitting an appeal form to the principal.
 - b. A panel of three people, one from the school board, one from the police department personnel and one from the school district's students or parents, shall review and rule on the appeals, and, if requested, hold a hearing.
 - i. Within 20 days of the appeal, the panel shall issue a written report with findings of fact, and what remedies, if any, will be undertaken.
 - ii. If allegations of serious misconduct by an officer are substantiated, that officer shall be permanently prohibited from being on school property.
- F. Confidentiality - All documents and information related to the complaint shall remain confidential, unless:
 - a. Subject to a subpoena issued by a judge; or
 - b. The allegation of the officer's misconduct is substantiated, in which case, the report(s) shall become part of the officer's personnel file.
- G. Nothing in this policy shall limit:
 - a. Legally mandated due process for students, school employees, or police department employees; or
 - b. The right of a private party to pursue legal action in a court of law.

VII. COMMUNICATION AND REPORTING

- A. In order to foster good relationships between the school, law enforcement, students and the community, SRO's are encouraged to attend:
 - i. School staff meetings;
 - ii. School events; and
 - iii. Community events involving the students of the school to which the officer is assigned;

- B. To promote clear lines of communication between the school, law enforcement, students and the community, SRO's will meet with students, parents, staff, and other community members at least twice a year – in September and January – to:
 - i. Provide training on public safety topics (using a training curriculum that is approved, in writing, by the officer's supervisor);
 - ii. Review data that must be collected pursuant to this MOU;
 - iii. Receive feedback on school climate issues and his or her performance; and
 - iv. Discuss possible improvements to this MOU, the officer's activities, safety protocols at the school, etc.

- C. Data Collection: The police department and the school district shall collect data on all of the following that occur on school property:
 - i. Uses of force;
 - ii. Searches;
 - iii. Questioning;
 - iv. Arrests; and
 - v. Complaints (*i.e.*, referrals to court).

- D. The data shall be disaggregated by:
 - i. Action taken (*i.e.*, use of force, search, arrest, or court referral);
 - ii. Officer's name;
 - iii. Officer's position;
 - iv. Location (*e.g.*, school name);
 - ii. Student's name;
 - iii. Student's age;
 - iv. Student's grade;
 - v. Student's race;
 - vi. Student's gender;
 - vii. Student's disability status (*i.e.*, Individualized Education Program or 504 Plan vs. no plan);
 - viii. Student's limited English proficiency status (*i.e.*, limited English proficient or not limited English proficient);
 - xii. Student's offense(s); and
 - xiii. Offense(s) with which student was charged (if applicable).

- E. The police department and the school district shall also comply with all statewide and federal (e.g., Civil Rights Data Collection) reporting requirements.
- F. The cost of SROs, and who is providing payment, shall be set forth in a document that is attached to this MOU, and made available to the public.
- G. By September 1st of each year, the school shall make available on its website
 - i. This MOU, with attachments.
 - ii. A detailed summary of the data from the previous school year.

VIII. STUDENT RECORDS AND INFORMATION

- A. All records created or maintained by SROs shall remain confidential, unless release of the records is allowed by law.
- B. SROs shall not:
 - i. Have access to students’ education records, unless the student’s parent (or the student, if he or she is age 18 or older), provides written consent for the school to release the records; or
 - ii. Provide any official police document or juvenile court record to school division personnel, unless otherwise required by law.

IX. TERMS OF AGREEMENT

This MOU shall be reviewed and revised, as necessary, by the School Board’s and by the Police Department’s leadership on an annual basis.

This MOU remains in force until such time as either party, with 60 days’ notice, withdraws from the agreement by delivering a written notification of such rescission to the other party.

The school and police department agree to follow the policies and procedures contained in this MOU.

For the School:

Chair, School Board

Date

For the Police Department:

Chief, Police Department

Date